

**TITLE 10
PART 1
CHAPTER 20**

**COMMUNITY DEVELOPMENT
TEXAS DEPARTMENT OF HOUSING & COMMUNITY AFFAIRS
SINGLE FAMILY PROGRAMS UMBRELLA RULE**

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§20.1 Purpose.

This Chapter sets forth the common elements of the Texas Department of Housing and Community Affairs' (the "Department") single family Programs, which includes the Department's HOME Investment Partnerships Program (HOME), Texas Housing Trust Fund (HTF), Bond/First Time Homebuyer (FTHB), Taxable Mortgage Program (TMP), Texas Neighborhood Stabilization (NSP), and Office of Colonia Initiatives (OCI) Programs and other single family Programs as developed by the Department. Single family Programs are designed to improve and provide affordable housing opportunities to low-income individuals and families in Texas and in accordance with Texas Government Code, Chapter 2306 and any applicable statutes and federal regulations.

§20.2 Applicability.

Unless otherwise noted, this Chapter only applies to single family Programs. Program Rules may impose additional requirements related to any provision of this Chapter. Where Program Rule conflict with this Chapter, the provisions of this Chapter will control Program decisions.

(1) The Amy Young Barrier Removal Program is excluded from the Inspection and Construction Requirements identified in §20.10 and Survey Requirements in §20.11.

(2) Small Repair is excluded from having all the deficiencies noted on the inspection report being cured or addressed and the Survey Requirements in §20.11.

§20.3 Definitions.

The following words and terms, when used in this Chapter, shall have the following meanings unless the context or the NOFA indicates otherwise. Other definitions may be found in Texas Government Code, Chapter 2306 and Chapter 1 of this Title (relating to Administration), and the applicable federal regulations.

(1) Activity--A form of assistance provided to a Household or Administrator by which single family funds are used for acquisition, new construction, reconstruction, rehabilitation, refinance of an existing

Mortgage, tenant-based rental assistance, or other single family Department approved expenditure for single family housing.

(2) Administrator--A unit of local government, Nonprofit Organization or other entity acting as a Community Housing Development Organization under 24 C.F.R. Part 92 ("CHDO"), Subrecipient, Developer or similar organization that has an executed written Agreement with the Department.

(3) Affirmative Marketing Plan--HUD Form 935.2B or equivalent plan created in accordance with HUD requirements to direct specific marketing and outreach to potential tenants and homebuyers who are considered "least likely" to know about or apply for housing based on an evaluation of market area data.

(4) Affiliate--If, directly or indirectly, either one Controls or has the power to Control the other or a third person Controls or has the power to Control both. The Department may determine Control to include, but not be limited to:

(A) interlocking management or ownership;

(B) identity of interests among family members;

(C) shared facilities and equipment;

(D) common use of employees; or

(E) a business entity which has been organized following the exclusion of a person which has the same or similar management, ownership, or principal employees as the excluded person.

(5) Affiliated Party--A person or entity with a contractual relationship with the Administrator through an Agreement with the Department.

(6) Agreement--Same as "Contract." May be referred to as a "Reservation System Agreement" or "Reservation Agreement" when providing access to the Department's Reservation System as defined in this Chapter.

(7) Amy Young Barrier Removal Program--Program designed to remove barriers and address immediate health and safety issues as outlined in the Program Rule or NOFA.

(8) Annual Income--The definition of Annual Income and the methods utilized to establish eligibility for housing or other types of assistance as defined under the Program Rule.

(9) Applicant--An individual, unit of local government, nonprofit corporation or other entity who has submitted to the Department an Application for Department funds or other assistance.

(10) Application--A request for a Contract award or a request to participate in a Reservation System submitted by an Applicant to the Department in a form prescribed by the Department, including any exhibits or other supporting material.

(11) Certificate of Occupancy--Document issued by a local authority to the owner of premises attesting that the structure has been built in accordance with building ordinances.

(12) Chapter 2306--Texas Government Code, Chapter 2306.

(13) Combined Loan to Value (CLTV)--The aggregate principal balance of all the Mortgage Loans, including Forgivable Loans, divided by the appraised value.

(14) Competitive Application Cycle--A defined period of time that Applications may be submitted according to a published Notice of Funding Availability (NOFA) that will include a submission deadline and selection or scoring criteria.

(15) Conforming Mortgage Loan--A first-lien Mortgage Loan that meets Federal Housing Administration (FHA), U.S. Department of Agriculture (USDA), U.S. Department of Veterans Affairs (VA), and Fannie Mae or Freddie Mac guidelines.

(16) Contract--The executed written Agreement between the Department and an Administrator performing an Activity related to a single family Program that describes performance requirements and responsibilities. May also be referred to as "Agreement."

(17) Contract Administrator (CA)--Same as "Administrator."

(18) Control--The possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of any person or entity, whether through the ownership or voting securities, by contract or otherwise, including ownership of more than 50 percent of the general partner interest in a

limited partnership, or designation as a managing member of a limited liability company or managing general partner of a limited partnership or any similar member.

(19) Deobligate--The cancellation of or release of funds under a Contract or Agreement as a result of the termination of or reduction of funds under a Contract or Agreement.

(20) Department--The Texas Department of Housing and Community Affairs as defined in Chapter 2306.

(21) Developer--Any person, general partner, Affiliate, or Affiliated Party or affiliate of a person who owns or proposes a Development or expects to acquire control of a Development and is the person responsible for performing under the Contract with the Department.

(22) Domestic Farm Laborer--Individuals (and the family) who receive a substantial portion of their income from the production or handling of agricultural or aquacultural products.

(23) Draw--Funds requested by the Administrator, approved by the Department and subsequently disbursed to the Administrator.

(24) Forgivable Loan--Financial assistance in the form of money that, by Agreement, is not required to be repaid if the terms of the Mortgage Loan are met.

(25) HOME Program--HOME Investment Partnerships Program at 42 U.S.C. §§12701 - 12839.

(26) Household--One or more persons occupying a rental unit or owner-occupied Single Family Housing Unit. May also be referred to as a "family" or "beneficiary."

(27) Housing Trust Fund (HTF)--State-funded Programs authorized under Chapter 2306 of Texas Government Code.

(28) Housing Contract System (HCS)--The electronic information system that is part of the "central database" established by the Department to be used for tracking, funding, and reporting single family Contracts and Activities.

(29) HUD--The United States Department of Housing and Urban Development or its successor.

(30) Life of Loan Flood Certification--Tracks the flood zone of the Single Family Housing Unit for the life of the Mortgage Loan.

(31) Limited English Proficiency (LEP)--Requirements as issued by HUD and the Department of Justice to ensure meaningful and appropriate access to programs and activities by individuals who have a limited ability to read, write, speak or understand English.

(32) Loan Assumption--An agreement between the buyer and seller of Single Family Housing Unit that the buyer will make remaining payments and adhere to terms and conditions of an existing Mortgage Loan on the Single Family Housing Unit and Program requirements. A Mortgage Loan assumption requires Department approval.

(33) Loan to Value (LTV)--The amount of the Mortgage Loan(s) divided by the Single Family Housing Unit's appraised value, excluding Forgivable Loans.

(34) Manufactured Housing Unit (MHU)--A structure that meets the requirements of Texas Manufactured Housing Standards Act, Texas Occupations Code, Chapter 1201 or FHA guidelines as required by the Department.

(35) Mortgage--Has the same meaning as defined in §2306.004 of the Texas Government Code.

(36) Mortgage Loan--Has the same meaning as defined in §2306.004 of the Texas Government Code.

(37) Nonconforming Mortgage Loan--Any Mortgage Loan that does not meet the definition of a "Conforming Mortgage Loan" defined in this section.

(38) Neighborhood Stabilization Program (NSP)--A HUD-funded program authorized by HR3221, the "Housing and Economic Recovery Act of 2008" (HERA) and §1497 of the Wall Street Reform and Consumer Protection Act of 2010, as a supplemental allocation to the CDBG Program.

(39) NOFA--Notice of Funding Availability.

(40) Nonprofit Organization--An organization that is organized as such under state or federal laws and does not have a pending Application for nonprofit status.

(41) Office of Colonia Initiatives--A division of the Department authorized under Chapter 2306 of Texas Government Code which acts as a liaison to the colonias and manages some Programs in the colonias.

(42) Parity Lien--A lien position whereby two or more lenders share a security interest of equal priority in the collateral.

(43) Persons with Disabilities--Any person who has a physical or mental impairment that substantially limits one or more major life activities and has a record of such impairment; or is regarded as having such impairment.

(44) Principal Residence--The primary Single Family Housing Unit that a Household inhabits. May also be referred to as "primary residence."

(45) Program--The specific fund source from which single family funds are applied for and used.

(46) Program Income--Gross income received by the Administrator or Affiliate directly generated from the use of Single Family funds.

(47) Program Manual--A set of guidelines designed to be an implementation tool for the single family Programs which allows the Administrator to search for terms, statutes, regulations, forms and attachments. The Program Manual is developed by the Department and amended or supplemented from time-to-time.

(48) Program Rule--Chapters of this Title which pertain to specific single family Program requirements.

(49) Reconstruction--The demolition and rebuilding a Single Family Housing Unit on the same lot in substantially the same manner. The number of housing units may not be increased; however, the number of rooms may be increased or decreased dependent on the number of family members living in the housing unit at the time of Application.

(50) Rehabilitation--The improvement or modification of an existing residential unit through an alteration, addition, or enhancement.

(51) Reservation--Funds set-aside for a Household Applicant or single family Activity registered in the Department's registration system.

(52) Reservation System--The Department's computer registration system(s) that allows Administrators to reserve funds for a specific Household.

(53) Resolution--Formal action by a corporate board of directors or other corporate body authorizing a particular act, transaction, or appointment. Resolutions must be in writing and state the specific action that was approved and adopted, the date the action was approved and adopted, and the signature of person or persons authorized to sign resolutions. Resolutions must be approved and adopted in accordance with the corporate bylaws.

(54) Self-Help--Housing Programs that allow low, very low, and extremely low-income families to build or rehabilitate their Single Family Housing Units through their own labor or volunteers.

(55) Set-up--The creation of a new Activity in the Department database by an Administrator, which requires review and approval by the Department.

(56) Single Family Housing Unit--A home designed and built for one person or one Household for rental or owner-occupied. This includes the acquisition, construction, reconstruction or rehabilitation of an attached or detached unit. May be referred to as a single family "home," "housing," "property," "structure," or "unit."

(57) Small Repair--An Activity specific to the Colonia Self Help Center Program designed to address repairs by the homeowner using self help methods.

(58) Soft costs--Costs related to and identified with a specific Single Family Housing Unit other than construction costs. May also be referred to as "direct delivery" costs.

(59) Subgrantee--Same as "Administrator."

(60) Subrecipient--Same as "Administrator."

(61) TAC--Texas Administrative Code.

(62) TMCS--Texas Minimum Construction Standards as amended and described in the Miscellaneous Section of the *Texas Register*.

(63) TREC--Texas Real Estate Commission.

§20.4. Eligible Single Family Activities.

(a) Availability of funding for and specific Program requirements related to the Activities described in subsection (b)(1) - (9) of this section are defined in each Program's Rules.

(b) Activity Types for eligible single family housing Activities include the following, as allowed by the Program Rule or NOFA:

(1) acquisition or acquisition with rehabilitation including accessibility modifications to Single Family Housing Units;

(2) rehabilitation, or new construction of Single Family Housing Units;

(3) rehabilitation or reconstruction of existing housing on the same site;

(4) new construction of site-built housing on the same site to replace an existing owner-occupied Manufactured Housing Unit (MHU);

(5) Replacement of existing owner-occupied housing with a new MHU; or

(6) new construction of site-built housing on another site;

(7) refinance of an existing Mortgage;

(8) tenant-based rental assistance; and

(9) any other single family Activity as determined by the Department.

(c) Rehabilitation of an MHU with federal funds is an ineligible activity.

§20.5. Funding Notices.

(a) The Department will make funds available for eligible Administrators for single family activities through NOFAs, requests for qualifications (RFQs), request for proposals (RFPs) or other methods for the release of funding describing the submission and eligibility guidelines. The Program Rule or NOFA shall outline the process for correcting deficiencies.

(b) Funds may be allocated through Contract awards by the Department or by the Department's providing authority to submit Reservations.

(c) Funds may be subject to regional allocation in accordance with Chapter 2306.

(d) The Department will develop and publish Application materials for participation in the HCS and/or Reservation Systems. Eligible Applicants must comply with the provisions of the Application materials and NOFA and are responsible for the accuracy and timely completion and submission of all Applications.

§20.6. Applicant Eligibility.

(a) Eligible Applicants may include entities such as units of local governments, Nonprofit Organizations, or other entities as further provided in the Program Rule and/or NOFA.

(b) Applicants shall be in good standing with the Department, Texas Office of the Secretary of State, Texas Comptroller of Public Accounts and HUD, as applicable.

(c) Applicants shall comply with all applicable state and federal rules, statutes, or regulations including those requirements in Chapter 1 of this Title.

(d) Resolutions must be provided in accordance with the applicable Program Rule or NOFA.

(e) The violations described in paragraphs (1) - (5) of this subsection may cause an Applicant and any Applications they have submitted, to be ineligible:

(1) Applicant did not satisfy all eligibility requirements described in the Program Rule and NOFA to which they are responding;

(2) Applicant failed to make timely payment on fee commitments or on debts to the Department and for which the Department has initiated formal collection or enforcement actions;

(3) Applicant failed to comply with any other provisions of debt instruments held by the Department including, but not limited to, such provisions as timely payment of property taxes and proper placement and maintenance of insurance;

(4) Applicant is debarred by HUD or the Department; or

(5) current or previous noncompliance. Each Applicant will be reviewed for compliance history by the Department. Applications submitted by Applicants found to be in noncompliance or otherwise violating the Rules of the Department may be terminated and/or not recommended for funding.

(f) The Department reserves the right to adjust the amount awarded based on the Application's feasibility, underwriting analysis, the availability of funds, or other similar factors as deemed appropriate by the Department.

(g) The Department may decline to fund any Application if the proposed Activities do not, in the Department's sole determination, represent a prudent use of the Department's funds. The Department is not obligated to proceed with any action pertaining to any Applications which are received, and may decide it is in the Department's best interest to refrain from pursuing any selection process. The Department reserves the right to negotiate individual elements of any Application.

§20.7. Household Eligibility Requirements.

(a) The method used to determine Annual Income will be provided in the Program Rule or NOFA.

(b) Households must occupy the Single Family Housing Unit as their Principal Residence for a period of time as established by the Program Rule or NOFA.

§20.8. Single Family Housing Unit Eligibility Requirements.

(a) A Single Family Housing Unit to be acquired or constructed with Department funds must be located in the State of Texas, and must have good and marketable title at the closing of any Mortgage Loan.

(b) Real property taxes assessed on an owner-occupied Single Family Housing Units must be current (including prior years) or the Household must be satisfactorily participating in an approved payment plan with the taxing authority, must qualify for an approved tax deferral plan or has received a valid exemption from real property taxes.

(c) An owner-occupied Single Family Housing Unit must not be encumbered with any liens which impair the good and marketable title. The Department will require the owner to be current on any existing Mortgage Loans or home equity loans prior to assistance.

§20.9. General Administration and Program Requirements.

(a) Costs incurred by Administrator for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent such costs do not exceed charges normally allowed by the U.S. General Services Administration (GSA) per diem rates at: <http://www.gsa.gov/portal/category/21287>.

(b) Administrators must comply with all applicable local, state, and federal laws, regulations, and ordinances for procurement with single family Program funds.

(c) In addition to Chapter 1, Subchapter B of this Title, Administrators receiving Federal funds must comply with all applicable state and federal rules, statutes, or regulations, involving accessibility including the Fair Housing Act, Section 504 of the Rehabilitation Act of 1973, Title II of the Americans with Disabilities Act, and the Architectural Barriers Act as well as state and local building codes that contain accessibility requirements; where local, state, or federal rules are more stringent, the most stringent rules shall apply.

(d) Administrators receiving Federal funds must also comply with HUD's Affirmative Fair Housing Marketing and Limited English Proficiency Requirements and the Age Discrimination Act of 1975. Administrators receiving Federal funds must also have an Affirmative Fair Housing Marketing Plan.

§20.10. Inspection and Construction Requirements.

(a) Construction Inspections.

(1) Initial Inspections.

(A) An initial inspection identifying all substandard conditions listed in Texas Minimum Construction Standards along with any other health or safety concerns must be conducted for all rehabilitation or reconstruction projects.

(B) The initial inspection report must be provided to both the Department and the homeowner.

(C) All substandard conditions identified in the initial inspection report shall be addressed in the work write-up in adequate detail.

(2) Interim Inspections of construction progress may be required to document construction Draw requests.

(3) Final Inspections.

(A) Final construction inspections are required for all new construction, reconstruction and rehabilitation Activities. The inspection must ensure that the construction of the Single Family Housing Unit is complete and meets all applicable codes and requirements including zoning ordinances as applicable, and have no observed deficiencies related to health and safety standards.

(B) Final inspections must document that all substandard conditions identified in the initial inspection have been corrected, repaired or removed. A copy of the final inspection report must be provided to the Department and the Household.

(C) Any deficiencies noted on the inspector's report must be corrected prior to the final Draw.

(D) A Certificate of Occupancy shall be issued prior to final payment for construction, as applicable. If no Certificate of Occupancy is available from an incorporated area, a document from the local government entity showing that the Single Family Housing Unit has passed all required building codes must be obtained and provided to the Department.

(E) The Certificate of Occupancy may substitute for a final construction inspection, if available and acceptable to the Program. If no Certificate of Occupancy is available, a final construction inspection must be conducted and the report provided to the Department and homeowner.

(F) Cosmetic issues such as paint, wall texture, etc. identified in a final inspection will not be required to be corrected if utilizing a Self-Help construction Program, or if acceptable to the Program as outlined in Program Rule or NOFA.

(b) Other inspection requirements.

(1) All inspectors shall inspect properties utilizing applicable construction standards prescribed by the Department.

(2) All inspectors shall utilize Department approved and prescribed inspection forms/checklists for applicable inspections.

(3) Single Family Housing Units receiving only utility connections under the Colonia Self Help Center Program are exempt from inspection requirements.

(4) The Department reserves the right to reject any inspection report which in its sole determination does not accurately represent the property conditions or if the inspector does not meet Program requirements. If an inspection report is rejected, all related construction costs may be disallowed until appropriate corrections are made.

(c) Requirements for Use of professional inspectors or qualified inspection individuals.

(1) Professional home inspectors or qualified inspection individuals shall conduct all initial and final inspections for New Construction, Reconstruction and Rehabilitation activities.

(2) Municipal code officials, as applicable, shall conduct inspections inside of city limits and extraterritorial jurisdictions.

(3) The active TREC licensed professional home inspector may be a staff member of the Administrator.

(4) Inspectors used to verify compliance with this Chapter must meet Program requirements.

(d) Reconstruction and new construction Requirements. Compliance with Accessibility Requirements-- Applicant must submit one of the documents described in paragraph (1) or (2) of this subsection to ensure that requirements of Texas Government Code, §2306.514 and other Program Rules are met:

(1) Prior to commencement of construction, a copy of the proposed plans and specifications for reconstruction and new construction of Single Family Housing Units. All plans submitted must be prepared and executed by an architect licensed by the state of Texas;

(2) A certification of compliance from a licensed architect.

(e) Rehabilitation Requirements.

(1) Administrators shall meet the applicable requirements of the Texas Minimum Construction Standards (TMCS) for all Rehabilitation projects.

(2) TMCS requirements may be waived only through the process provided in §20.16 of this Chapter.

§20.11. Survey Requirements.

When assistance is provided in the form of an acquisition Mortgage Loan:

(1) a Category 1A (Texas Society of Professional Surveyors) land title survey is required for single family acquisition where:

(A) the Department is a lien holder and the Program funds are used for construction or purchase because:

(i) the rehabilitation project is enlarging the footprint; or

(ii) the project is reconstruction or new construction or purchasing an existing home; and

(B) if allowed by the Program Rules or NOFA, existing surveys for acquisition only activities may be used if the Household certifies that no changes were made to the footprint of any building or structure, or to any improvement on the Single Family Housing Unit;

(2) the Department reserves the right to determine the survey requirements on a per project basis if additional survey requirements would, at the sole discretion of the Department, benefit the project.

§20.12. Insurance Requirements for Acquisition Activities.

(a) Title Insurance requirements. A Mortgagee's Title Insurance Policy is required for all non-conforming Department Mortgage Loans as required by the Program Rules or NOFA, exclusive of Mortgage Loans financed with mortgage revenue bonds or through the Taxable Mortgage Program. The title insurance must be written by a title insurer licensed or authorized to do business in the jurisdiction where the Single Family Housing Unit is located. The policy must be in the amount of the Mortgage Loan. The mortgagee named shall be: "Texas Department of Housing and Community Affairs."

(b) Title Reports.

(1) Title reports may be provided in lieu of title commitments only for grants when title insurance is not available. Title reports shall be required when the grant funds exceed \$20,000.

(2) The preliminary title report may not be older than allowed by the Program Rule or NOFA.

(3) Liens, or any other restriction or encumbrances that impair good and marketable title must be cleared on or before closing of the Department's transaction.

(c) Builder's Risk (non-reporting form only) is required where construction funds in excess of \$20,000.00 for a Single Family Housing Unit is being financed and/or advanced by the Department. At the end of the construction period, the binder must be endorsed to remove the "pending disbursements" clause.

(d) Hazard Insurance.

(1) The hazard insurance provisions are not applicable to HOME Program activities unless required in the Program Rule or NOFA.

(2) If Department funds are provided in the form of a Mortgage Loan, then:

(A) the Department requires property insurance for fire and extended coverage;

(B) Homeowner's policies or package policies that provide property and liability coverage are acceptable. All risk policies are acceptable;

(C) the amount of hazard insurance coverage at the time the Mortgage Loan is funded should be no less than 100 percent of the current insurable value of improvements; and

(D) the Department should be named as a loss payee and mortgagee on the hazard insurance policy.
(e) Flood insurance must be maintained for all structures located in special flood hazard areas where the U.S. Federal Emergency Management Agency (FEMA) has mandated flood insurance coverage.

(1) A Household may elect to obtain flood insurance even though flood insurance is not required. However, the Household may not be coerced into obtaining flood insurance unless it is required in accordance with this section.

(2) Evidence of insurance, as required in this Chapter, must be obtained prior to Mortgage Loan funding. A one year insurance policy must be paid and up to two (2) months of reserves may be collected at the closing of the Mortgage Loan. The Department must be named as loss payee on the policy.

§20.13. Loan, Lien and Mortgage Requirements for Activities with Acquisition.

(a) The requirements in this section shall apply to Nonconforming Mortgage Loans for Activities with acquisition of real property, unless otherwise provided in the Program Rule, NOFA or Program guidelines.

(b) The fee requirements described in paragraphs (1) - (3) of this subsection apply to Nonconforming Mortgage Loans:

(1) Allowable expenses are restricted to reasonable third party fees.

(2) Fees charged by third party Mortgage lenders are limited to the greater of 2 percent of the Mortgage Loan amount or \$3,500, including but not limited to origination, Application, and/or underwriting fees.

(3) Fees paid to other parties that are supported by an invoice and reflected on the HUD-1 will not be included in the limit.

(c) Maximum Debt Ratio. The total debt-to-income ratio may not exceed 45 percent. A borrower's spouse who does not apply for the Mortgage Loan will be required to execute the information disclosure form and the deed of trust as a "non-purchasing" spouse. The "non-purchasing" spouse will not be required to execute the note. For credit underwriting purposes all debts and obligations of both the borrower and the "non-purchasing" spouse will be considered in the borrower's total debt-to-income ratio.

(d) The Department reserves the right to deny assistance in the event that the senior lien conditions are not to the satisfaction of the Department, as outlined in the Program Rule or NOFA.

(e) Lien position requirements.

(1) A Mortgage Loan made by the Department shall be secured by a first (1st) lien on the real property if the Department's Mortgage Loan is the largest Mortgage Loan secured by the real property; or

(2) The Department may accept a Parity Lien position if the original principal amount of the leveraged Mortgage Loan is equal to or greater than the Department's Mortgage Loan; or

(3) The Department may accept a subordinate lien position if the original principal amount of the leveraged Mortgage Loan is at least \$1,000 or greater than the Department's Mortgage Loan. However liens related to other subsidized funds provided in the form of grants and non-amortizing Mortgage Loan, such as deferred payment or Forgivable Loans, must be subordinate to the Department's payable Mortgage Loan.

(4) A subordinate Mortgage Loan may be re-subordinated, at the discretion of the Department, and as provided in the Program Rules or NOFA.

(f) Escrow Accounts.

(1) An escrow account must be established if:

(A) the Department holds a first lien Mortgage Loan which is due and payable on a monthly basis to the Department; or

(B) the Department holds a subordinate Mortgage Loan and the first lien lender does not require an escrow account, the Department may require an escrow account to be established.

(2) If an escrow account held by the Department is required under one of the provisions described in this subsection, then the provisions described in subparagraphs (A) - (F) of this paragraph are applicable:

- (A) The borrower must contribute monthly payments to cover the anticipated costs of real estate taxes, hazard and flood insurance premiums, and other related costs as applicable;
- (B) Escrow reserves shall be calculated based on land and completed improvement values;
- (C) The Department may require up to two (2) months of reserves for hazard and/or flood insurance and property taxes to be collected at the time of closing to establish the required Escrow account;
- (D) In addition, the Department may also require that the property taxes be prorated at the time of closing and those funds be deposited with the Department;
- (E) The borrower will be required to deposit monthly funds to an escrow account with the Mortgage Loan servicer in order to pay the taxes and insurance. This will ensure that funds are available to pay for the cost of real estate taxes, insurance premiums, and other assessments when they come due; and
- (F) These funds are included in the borrower's monthly payment to the Department or to the servicer. The Department will establish and administer the escrow accounts in accordance with the Real Estate Settlement and Procedures Act of 1974 (RESPA) if applicable.

§20.14. Amendments to Agreements and Contracts and Modifications to Mortgage Loan Documents.

- (a) The Department, acting by and through its Executive Director or his/her designee, may authorize, execute, and deliver amendments to any written Agreement or Contract provided that the requirements of this section are met.
- (b) Time extensions. The Executive Director or his/her designee may grant up to a cumulative twelve (12) months extension to the end date of any Contract unless otherwise indicated in the Program Rules or NOFA. Any additional time extension granted by the Executive Director shall include a statement by the Executive Director identifying the unusual, non-foreseeable or extenuating circumstances justifying the extension. If more than a cumulative twelve (12) months of extension is requested and the Department determines there are no unusual, non-foreseeable, or extenuating circumstances, it will be presented to the Board for approval, approval with revisions, or denial of the requested extension.
- (c) Award or Contract Reductions. The Department may decrease an award for any good cause including but not limited to the request of the Administrator, insufficient eligible costs to support the award, or failure to meet deadlines or benchmarks.
- (d) Changes in Household. Reductions in Contractual deliverables and Households shall require an amendment to the Contract. Increases in Contractual deliverables and Households that do not shift funds, or cumulatively shift less than 10 percent of total award or Contract funds, shall be completed through an amendment to the Contract.
- (e) Increases in Award and Contract Amounts.
 - (1) For a specific single family Program's Contract, the Department can award a cumulative increase of funds up to the greater of 25 percent of the original award amount or \$50,000.
 - (2) Requests for increases in funding will be evaluated by the Department on a first-come, first-served basis to assess the capacity to manage additional funding, the demonstrated need for additional funding and the ability to expend the increase in funding within the Contract period.
 - (3) The requirements to approve an increase in funding shall include, at a minimum, Administrator's ability to continue to meet existing deadlines, benchmarks and reporting requirements.
 - (4) Funding may come from Program funds, Deobligated funds or Program income.
 - (5) Qualifying requests will be recommended to the Executive Director for approval.
 - (6) The Board must approve requests for increase in Program funds in excess of the cumulative 25 percent or \$50,000 threshold.
- (f) The Executive Director may approve budget changes or amendments to the Contract that do not significantly decrease the benefits to be received by the Department.
- (g) The single family Program's Director may approve Contract budget modifications provided the guidelines described in paragraphs (1) - (4) of this subsection are met:
 - (1) funds must be available in a budget line item;
 - (2) the budget change(s) are less than 10 percent of the total Contract's budget;

(3) if units or activities are desired to be increased, but funds must be shifted from another budget line item in which units or activities from that budget line item have been completed, a Contract amendment will only be necessary if the cumulative budget changes exceed 10 percent of the Contract amount; and

(4) the cumulative total of all Contract's budget modifications cannot exceed 10 percent of the total Contract's budget amount.

(5) If these guidelines are not met, an amendment to the Contract will be required.

(h) The Department may terminate a Contract in whole or in part if the Administrator does not achieve performance benchmarks as outlined in the Contract or NOFA or for any other reason in the Department's reasonable discretion.

(i) In all instances noted in this section, where an expected Mortgage Loan transaction is involved, Mortgage Loan documents will be modified accordingly at the expense of the Administrator/borrower.

§20.15. Compliance and Deobligation.

The compliance requirements and Deobligation remedies identified under other provisions of this Title apply to all single family Program activities.